Single Bench

In the Honble High Court of Chhattishgarh at Bilaspur (C.G.)

W.P. (S) No. 5915 2006

Petitioner ..... Deepak Kumar Tiwari aged 52 years
S/O Shri Goverdhan Prasad Tiwari,
Assistant Teacher,
Government Primery School, Kharra,
Durg Tahsil & District,Durg.

P.R. No. Saught
Presented by Shri S. Verma
dated 30/10/06

VERSUS

Respondent ... ... 1. The State Government of Chhattishgarh,
Through the Secretary,
Education Department
D.K.S. Bhavan, Raipur (C.G.)

2. The Block Education Officer,
Durg (C.G)

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Writ petition under articles 226/227 of the Constitution of India for issuance of writ in the nature of MANDAMUS, Certiorari, Prohibition and other suitable WRIT or writs, Order or orders, Direction or directions.

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5887 of 2006

Petitioner : Gulab Singh Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5888 of 2006

Petitioner : RatiRam Chandrakar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5889 of 2006

Petitioner : Onkar Lal Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5890 of 2006

Petitioner : Smt. Manorama Chandrakar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5891 of 2006

Petitioner : Panalal Netam
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5892 of 2006

Petitioner : BhanuRam Khewar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5893 of 2006

Petitioner : Jeewan Lal Dewangan
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5894 of 2006

Petitioner : Kunjlal Deshlahara
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5895 of 2006

Petitioner : Bansilal Keshriya
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5896 of 2006

Petitioner : Smt. Nirmala Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5897 of 2006

Petitioner : Smt. Sarswati Chandraker
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5898 of 2006

Petitioner : Tarachand Mandavi
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5899 of 2006

Petitioner : Nand Lal Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5900 of 2006

Petitioner : Yogeshwar Kumar Choudhary
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5901 of 2006

Petitioner : Kaushal Prasad Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5902 of 2006

Petitioner : Sunil Kumar Dewangan
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5903 of 2006

Petitioner : Jeewan Lal Chandrakar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5904 of 2006

Petitioner : Khilanand Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

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W. P. (s) No. 5905 of 2006

Petitioner : Jagdish Ram Dilliwar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5906 of 2006

Petitioner : Kum. Suhasini Giribhal
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5907 of 2006

Petitioner : Devi Sing Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5908 of 2006

Petitioner : Narendra Kumar Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5909 of 2006

Petitioner : Omprakash
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5910 of 2006

Petitioner : Smt. Gouri Biwas
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5914 of 2006

Petitioner : Rudra Kumar Angare
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5915 of 2006

Petitioner : Deepak Kumar Tiwari
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5916 of 2006

Petitioner : VishRam Singh Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5917 of 2006

Petitioner : Deendayal Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5918 of 2006

Petitioner : Makhan Lal Goutam
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5919 of 2006

Petitioner : Ku. Sunita Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5920 of 2006

Petitioner : TekRam Dewangan
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5921 of 2006

Petitioner : Ramji Dillawar
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5922 of 2006

Petitioner : Panch Kumar Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5923 of 2006

Petitioner : Shankar Lal Chhedaiya
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5924 of 2006

Petitioner : Durvasa Ram Sahu
Versus
Respondents : The State Govt. of Chhattisgarh & another

W. P. (s) No. 5925 of 2006

Petitioner : Smt. Sarita Deshmukh
Versus
Respondents : The State Govt. of Chhattisgarh & another

And

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W. P. (s) No. 5926 of 2006

Petitioner : Yuman Lal Chandraker
Versus
Respondents : The State Govt. of Chhattisgarh & another

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Present: Shri Ajay Shrivastava, Advocate for the Petitioners.
Shri V.V.S. Moorthy, Deputy Advocate General with
Shri Utkarsh Verma, Deputy Government Advocate for the State/respondents.

ORDER

(2nd November, 2006)

1. The petitioners are working as Assistant Teachers in the government schools. In the course of their services as Assistant Teachers, the petitioners have obtained B. Ed./B.T.I. examination certificates on their own expenses before 1.3.1999.

2. Writ Petition (S) No.s 5887/2006, 5888/2006, 5889/2006, 5890/2006, 5891/2006, 5892/2006, 5893/2006, 5894/2006, 5895/2006, 5896/2006, 5897/2006, 5898/2006, 5899/2006, 5900/2006, 5901/2006, 5902/2006, 5903/2006, 5904/2006, 5905/2006, 5906/2006, 5907/2006, 5908/2006, 5909/2006, 5910/2006, 5914/2006, 5915/2006, 5916/2006, 5917/2006, 5918/2006, 5919/2006, 5920/2006, 5921/2006, 5922/2006, 5923/2006, 5924/2006, 5925/2006 and 5926/2006 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed./B.T.I.

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Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on record in connected matters.

Sd/-
Satish K. Agnihotri
Judge

Subhash